THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 21517 of 2006

DATED: 4-06-2007

Between:

Avvaru Venkata Subbaiah and others

…Petitioners

and

The Special Collector, Land Acquisition,
Somasila Project Unit I, Galerunagari Srujana
Sravanti (GNSS), Sankarapuram, Kadapa and another

…Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

W.P.No. 21517 of 2006

Oral order:

The writ petition is barred by laches and delay. There are 51 petitioners. They claim to have been assigned land in distinct extents each in Sy.Nos.123/4, 240/A1, 241/A1, 241/A2 and 241/A3 in Boyanapalle H/o Madhavaram Village, Vontimitta Mandal, Kadapa District in the year 1956. They also claim to have constructed houses and to be living there since 1056.

The State acquired the lands assigned to the petitioners along with structures thereon due to submergence under the Somasila Project. The lands are stated to have been resumed in 1987. No compensation was however paid by the Deputy Collector (LA), Telugu Ganga Project, Kadapa.

According to the averments in para 4 of the affidavit, some persons filed W.P.No.5166 of 1987 seeking payment of compensation for acquisition/resumption of the assigned lands on par with patta lands in terms of certain administrative orders issued in G.O.Ms.No.180, Revenue, dated 9-2-1984. By the judgment dated 29-11-1988, W.P.No.5166 of 1987 is stated to have been disposed of holding that as there was no violation of assignment conditions by the assignees, the lands resumed in the village must be treated on par with patta lands and compensation granted as specified in G.O.Ms.No.180, dated 9-2-1984.

The petitioners further averred (para 5) that the Special Collector, Telugu Ganga Project in his proceedings dated 20-3-1994

ordered payment of Exgratia and compensation to the structures on the assigned land of the petitioners. Consequently certain amounts towards compensation are stated to have been paid by way of cheques to the petitioners in 1994. The petitioners also claim (para 6), a claim unspecified by particulars as to the date or authority to whom applications were made, that they sought reference to the Civil Court under Section 18 of the Land Acquisition Act, 1894 (for short 'the Act'). As already stated, no particulars are furnished as to when each of the petitioners had submitted an application for reference under Section 18 of the Act and to what authority.

On the basis of aforesaid and vague pleadings, the petitioners assert that the conduct of the respondent in failing to refer to the Civil Court their claims for higher compensation under Section 18 of the Act is illegal and arbitrary.

The petitioners have failed to plead or establish that they made an application for reference to the Civil Court within time. No particulars have been furnished.

On behalf of the respondents, a counter-affidavit is filed by the 2nd respondent. To the extent relevant and material, the counter-affidavit avers that no applications seeking reference to the Civil Court were received from any of the petitioners. The counter-affidavit also states that the land belongs to the Government and there is no obligation to pay the market value.

In the absence of any specific pleadings in the writ petition regarding the day on which applications for reference to the Civil Court were filed and in the context of the specific averments in the counter-affidavit that no applications were received from any of the petitioners seeking reference, the relief in specie as sought by the writ petitioners cannot be granted. Further, the writ petition has been filed more than 12 years after arisal of the cause of action i.e., after the payment of compensation in 1994. There is no averment whatsoever in the writ petition explaining this extraordinary and inordinate delay.

For the aforesaid reasons, the writ petition is dismissed both on the ground of laches and delay as well as on the merits. No order as to costs.

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GODA RAGHURAM, J

04-06-2007
GRR